REMARKS/ARGUMENTS

Upon entry of the instant amendment, claims 1-9 are pending. Claim 1 has been amended to more particularly point out the applicant's invention. It is respectfully submitted that upon consideration of the remarks below, an entry of the instant amendment, the application is in consideration for allowance.

CLAIM REJECTIONS - 35 U.S.C. § 102

Claims 1 and 4-6 have been rejected under 35 U.S.C. § 102(e)[1] as being anticipated by Levinson, U.S. Patent No. 6,496,634. In order for there to be anticipation, each and every one of the elements must be found in a single reference. It is respectfully submitted that the claims recite elements not disclosed or suggested by the Levinson patent. For example, the claims recite a hollow core photonic band gap fiber. The fiber 100 disclosed in the Levinson patent is not a photonic band gap fiber. As mentioned in paragraph [0018] of the instant application, examples of photonic band gap hollow core fibers are disclosed in "Stimulated Raman Scattering in Hydrogen-filled Hollow Core Photonic Crystal Fibers," by Benabid, et al., Science Magazine, Vol. 298, No. 5592, October 11, 2002, pages 399-402. A copy of this document is enclosed. Such hollow core photonic band gap fibers enable laser output wavelengths normally in a range that is injurious to the human eye for example 940-980 nanometers and 1060-1120 nanometers, as illustrated in Fig. 1, to be shifted to an eye-safe wavelength of 1520 to 1650 nanometers.

Moreover, it is respectfully submitted that the reference in the Detailed Action, col. 4, line 66 and 67 to the eye-safe level wavelength of 1550 nanometers is misplaced. In fact, the entire sentence reads: To amplify an optical communication signal in the 1550 NM band requires a pump wavelength shifted to a higher frequency ... the required pump wavelength then is 942.8 NM, which is easily produced at the required power level by semiconductor lasers. Thus, it should be clear that the system disclosed in the Levinson patent does not shift the output wavelength of wavers to an eye-safe wavelength in the range of 1520-1650 nanometers. For all of the above reasons, the Examiner is respectfully requested to reconsider and withdraw this rejection.

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[1] Since the Levinson, U.S. Patent No. 6,496,634 issued on December 17, 2002, before the filing of application no. 10/681,441 on October 8, 2003, the applicant is treating the rejection as a rejection under 35 § U.S.C. 102(a) instead of 35 U.S.C. § 102(e).

Claim 7 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Levinson, and further in view of Bobbs, et al., U.S. Patent No. 4,922,495. Claim 7 is dependent upon claim 6, which also recites a hollow core photonic band gap fiber filled with H_2 gas. As mentioned above, the Levinson patent does not disclose or suggest a hollow core photonic band gap fiber. The Bobbs, et al. patent, likewise, does not disclose such a hollow core photonic band gap filter.

Based on the above, it is respectfully submitted that the Examiner has failed to set forth a *prima facie* case of obviousness as required by the MPEP § 2143. In particular, a prima facie case of obviousness under MPEP § 2143 requires the following criteria to be met:

> *"First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations."*

As mentioned above, neither the Levinson nor Bobbs, et al. patent discloses the use of a hollow core photonic band gap fiber and shifting the wavelength of a laser system to an eye-safe wavelength. For all of the above reasons, the Examiner is respectfully requested to reconsider and withdraw the rejection of claim 7.

Claims 2, 3, and 8 have been rejected as being unpatentable over Levinson and further in view of Grudidnin, et al., U.S. Patent Application Publication No. US 2003/0021302 A1. Claims 2, 3, and 8 are dependent upon claim 1. The Levinson patent was discussed above and does not disclose a hollow core photonic band gap fiber. The Grudidnin publication, likewise, does not disclose the use of a hollow core photonic band gap fiber. For these reasons and the above reasons, the Examiner is respectfully requested to reconsider and withdraw this rejection.

Claim 9 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Levinson and Grudidnin and further in view of the Bobbs, et al. patent. Claim 9 is dependent upon claim 1. The Levinson, Grudidnin, and Bobbs, et al. patents have been discussed above. None of these patents disclose or suggest the use of a hollow core photonic band gap fiber. For these reasons and the above reasons, the Examiner is respectfully requested to reconsider and withdraw this rejection.

Respectfully submitted,

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